

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

MOHAMED MOKBEL

§
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§
§

Case Number H-4:19-cr-103

MOTION FOR REVOCATION OF RELEASE

The United States moves to revoke the defendant's pre-trial order of release under 18 U.S.C. § 3148(b) because the Defendant continued to commit healthcare fraud related crimes while on release.

1. Original Indictment and Conditions of Release

The defendant was originally indicted March 4, 2021, on one count of conspiracy to commit healthcare fraud, three counts of health care fraud, and four counts of money laundering. The indictment alleged a fraud scheme involving pharmacies.

On March 11, 2021 Magistrate Judge Andrew Edison ordered conditions of release which the defendant promised to abide by including the relevant provisions:

- “Condition (1): The defendant must not violate federal, state, or local law while on release”
- “Condition (7)(b): The defendant must continue or actively seek employment at the same time not to engage in conduct related to the federal instant offense.”¹

2. Defendant Violates Condition (1) by Committing New Federal Crimes

¹ The “not to engage in conduct related to the federal instant offense” language was pronounced orally on March 11, 2021 and was eventually added to the written conditions through an agreed order amending the conditions of release on July 1, 2021. Docket 47.

On July 20, 2022, a federal grand jury found probable cause to indict the defendant in a superseding indictment charging one count of conspiracy to commit mail fraud and health care fraud in violation of 18 U.S.C. § 1349, two counts of health care fraud 18 U.S.C. § 1347, and 15 counts of money laundering in violation of 18 U.S.C. § 1957. (Doc. 99). The indictment expanded the timeframe and scope of the pharmacy fraud allegations, specifically including criminal conduct committed by the defendant after he was released on conditions. For example, count two and three of the superseding indictment allege health care fraud conduct occurring through May 2021, and counts 14-18 allege money laundering activities from April 2021 through August 2021.

The grand jury's true bill of the superseding indictment, by itself, provides this court with probable cause to find Mohamed Mokbel committed federal crimes while on release and thereby violated the first condition of release.

3. Defendant Violates Conditions 7(b) by Operating MK Pharmacy

The defendant violated condition of release 7(b) because operating pharmacies in a fraudulent manner is conduct directly related to the "federal instant offense", which is what Magistrate Judge Edison prohibited. The original indictment alleged a scheme involving pharmacies committing fraud against health care benefit programs such as Medicare. The evidence would show the defendant continued the practice while on supervised release.

A. Defendant Takes Over MK Pharmacy a Week after Release

As a part of an ongoing investigation into the defendants criminal conduct, special agents with Health and Human Services Office of Inspector General (HHS-OIG) visited MK Pharmacy on April 29, 2021 to determine the nature of its association with the defendant. At the time of the original March 4, 2021 indictment, MK Pharmacy was legally in the name of M.E., the wife of co-

defendant Fathy ElSafty. However, when the agents performed a site visit of MK Pharmacy and spoke with employees, they learned the pharmacy was owned by the defendant and run by 4M employees. A check of Texas State Board of Pharmacy records found the defendant signed paperwork to make himself an officer of MK Pharmacy on March 18, 2021, just one week after Magistrate Judge Edison ordered the conditions of release. (Gov. Ex. A - TSBP officer form)

B. Defendant Uses MK Pharmacy to Continue the Fraud

Agents examined the claims data and records of MK Pharmacy and saw the same modus operandi used by the prior 4M pharmacies they had investigated. For example, Medicare beneficiary K.C., who is referenced in count two of the superseding indictment, told agents she received unsolicited medications in the mail, had never previously heard of MK Pharmacy, and did not discuss these medications with her doctor, and had no need for them. The products ranged from topical creams to Omega-3 pills. A summary of claims indicated she was billed for prescriptions filled by MK Pharmacy on dates after the defendant was released on the conditions. (Gov. Ex. B - Interviews of K.C. and N.B.)

Carrier	Carrier Name	Member Last Name	Member First Name	Member Date Of Birth	NDC Drug Name	Claim Status Description	Filled Date	Submitted Date	Pharmacy Name	NCPDP	Pharmacy	Amount Billed by Pharm	Amount Paid to Pharm
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	OMEGA-3-ACID	Paid Status	01/07/2021	01/07/2021	MK PHARMACY	5925663	286.96	748.65	288.29
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CLOBETASOL	Paid Status	01/07/2021	01/07/2021	MK PHARMACY	5925663	15.37	1,243.43	61.47
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CLOBETASOL	Paid Status	02/01/2021	02/01/2021	MK PHARMACY	5925663	15.37	1,243.43	61.47
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CALCIPOTRIEN	Paid Status	02/23/2021	02/23/2021	MK PHARMACY	5925663	303.02	2,538.96	459.38
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CLOBETASOL	Paid Status	02/24/2021	02/23/2021	MK PHARMACY	5925663	15.37	1,243.43	61.47
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CLOBETASOL	Paid Status	03/19/2021	03/19/2021	MK PHARMACY	5925663	61.47	1,243.43	61.47
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	OMEGA-3-ACID	Paid Status	03/28/2021	03/28/2021	MK PHARMACY	5925663	225.22	748.65	225.22
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CALCIPOTRIEN	Paid Status	04/07/2021	04/07/2021	MK PHARMACY	5925663	431.19	2,538.96	431.19
MPDCSP	UNITEDHEALTHCARE DUAL COM	[REDACTED]	K [REDACTED]	[REDACTED] /1958	CLOBETASOL	Paid Status	04/11/2021	04/11/2021	MK PHARMACY	5925663	31.16	623.83	31.16

Similarly, Medicare beneficiary N.B., who is referenced in count three of the superseding indictment, told agents she did not recall receiving products she was billed for. She also told agents the items she had no need for the items that were billed to her. A summary charge of claims data

indicated she was billed for a prescription filled by MK Pharmacy on or about March 18, 2021 and May 14, 2021, after the defendant was released on conditions.

Carrier	Carrier Name	Member Last Name	Member First Name	Member Date Of Birth	NDC Drug Name	Claim Status Description	Filled Date	Submitted Date	Pharmacy Name	Pharmacy NCPDP	Copay	Amount Billed by Pharmacy	Amount Paid to Pharmacy
MPDCSP	UNITEDHEALTHCARE DUAL COM	B [REDACTED]	N [REDACTED]	[REDACTED]1951	CALCIPOTRIEN	Paid Status	03/18/2021	03/18/2021	MK PHARMACY	5925663	574.64	3,383.87	574.64
MPDCSP	UNITEDHEALTHCARE DUAL COM	B [REDACTED]	N [REDACTED]	[REDACTED]1951	CALCIPOTRIEN	Paid Status	05/14/2021	05/14/2021	MK PHARMACY	5925663	481.71	3,383.87	481.71

4. Applicable Law

The defendant's release from pre-trial detention is governed by 18 U.S.C. § 3142(a)(2) and because he is “[a] person who has been released under section 3142 of this title, and who has violated a condition of his release” he is “subject to a revocation of release, an order of detention, and a prosecution for contempt of court.” 18 U.S.C. § 3148(a). The United States may bring this motion because an “attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court.” 18 U.S.C. § 3148(b).

The statute explains the procedure in a straightforward manner:

“The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer (1) finds that there is (A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or (B) clear and convincing evidence that the person has violated any other condition of release; and (2) finds that (A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or (B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, the judicial officer shall treat the person in accordance with the provisions of section 3142 of this title and may amend the conditions of release accordingly.”

18 U.S.C. § 3148(b).

5. Under 18 U.S.C. § 3148, Defendant's Bail Should be Revoked

There is probable cause that Defendant committed multiple federal felonies because he was indicted on health care fraud and money laundering charges. This fact creates a rebuttable presumption that no condition or combination of conditions exist to ensure Defendant's appearance or public safety. The defendant continued operating a pharmacy and caused prescription medications to be sent to patients who did not need them, thereby creating a real public safety risk to the elderly who were at risk of taking unnecessary medications.

Furthermore, at the time the defendant committed these offenses, he demonstrated that the restrictive conditions of release he was subjected to were insufficient. These conditions, which included home confinement or curfew, a GPS ankle monitor, travel limitations, and a prohibition on engaging in conduct related to the "federal instant offense" were all in effect on March 18, 2021, one week after the defendant was released on bail and the same week the defendant took the legal steps to move MK Pharmacy into his name. The act of putting MK Pharmacy in the defendant's name and continuing to operate MK Pharmacy fraudulently is clear and convincing evidence that the defendant violated the condition of release prohibiting him from engaging in conduct related to the offense for which he was originally indicted. There are no conditions sufficient to ensure the defendant does not commit new offenses while on bail because he has proven to continue his conduct despite court orders.

6. Conclusion

For these reasons, the defendant has violated the conditions of release and should be taken into custody because under 18 U.S.C. 3148(b)(2)(B) the defendant “is unlikely to abide by any condition or combination of conditions of release.”

Date: July 25, 2022

Respectfully submitted,

JENNIFER B. LOWERY
United States Attorney
Southern District of Texas

By: s/ Abdul Rahman Farukhi
Abdul Rahman Farukhi
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E-mail: Abdul.Farukhi@usdoj.gov
Counsel for the United States of America

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July, 2022, I electronically filed this document with the Clerk of Court using CM/ECF, to which counsel below is a member:

Charles Flood
Email: charles@floodandflood.com
Phone: 713-223-8877

s/ Abdul Rahman Farukhi
Abdul Rahman Farukhi
Special Assistant United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

MOHAMED MOKBEL

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Case Number H-4:19-cr-103

ORDER

IT IS HEREBY ORDERED THAT, pursuant to 18 U.S.C. §§ 3148 and 3142, Defendant's release is to be revoked. The Court has found probable cause that Defendant committed a federal felony while released and clear and convincing evidence that Defendant violated other conditions of release, and the defendant is unlikely to abide by any condition or combination of conditions of release.

Signed at Houston, Texas, on _____, 2022.

THE HONORABLE LEE H. ROSENTHAL
UNITED STATES DISTRICT JUDGE

Government's Exhibit A TSBP Officer Form



TEXAS STATE BOARD OF PHARMACY
 333 Guadalupe Street Suite 3-500 ★ Austin, TX 78701
 (512) 305-8000 ★ www.pharmacy.texas.gov

Change of Managing Officer Form for an Existing Pharmacy License

Submit a separate form for EACH Managing Officer to be added. The below form must be filled out completely and accurately. Failure to fill out the form completely will result in delay of processing. If not applicable, put N/A.

- Each officer must provide a home (main) address which will be considered the confidential address of record AND an alternate address which may be provided to the public. You may enter the same address in both address types.
- Each individual owner, managing officer, or partner must attach a copy of their current Driver's License or state-issued Identification Card and a copy of their Social Security Card.

1 PHARMACY INFORMATION - The below information must match the information in TSBP Records			
A Business Name of Pharmacy	B Pharmacy License Number		
MK PHARMACY	32420		
C Physical Address of Pharmacy			
18006 PARK ROW DR, STE 35			
Street Address			
HOUSTON	TX	77084	
City	State	Zip/Postal Code	
2 List additional pharmacies affected by this change request (attach a separate page if needed)			
Name of Pharmacy	Texas Pharmacy License Number		
N/A			
3 Full Name of Managing Officer(s) to be Removed Title			
M [REDACTED] E	OFFICER		
4 MANAGING OFFICER INFORMATION			
Full Legal Name of Individual	Title of Officer	Texas Pharmacist License #	
MOHAMED M. MOKBEL	OFFICER	N/A	
Date of Birth (mm/dd/yyyy)	Social Security Number*		
[REDACTED]	[REDACTED]		
5 Home Address (Main/Confidential Address) - REQUIRED			
Street Address	Phone Number		
HOUSTON	TX	77027	
City	State	Zip/Postal Code	
Email Address for Individual			
CREDENTIALING@MKPHARMACYLLC.COM			
Public Address (Alternate Address to be Provided to the Public) - REQUIRED			
18006 PARK ROW DR, STE 350		(866) 507-9419	
Street Address	Alternate Phone Number		
HOUSTON	TX	77084	
City	State	Zip/Postal Code	
5 If the individual holds any other professional and/or regulatory licenses, provide the following information below <small>(Examples: Pharmacist in another state, Physician, Registered Nurse, etc.)</small>			
License Type	License #	State	Expiration Date
N/A	[REDACTED]	[REDACTED]	[REDACTED]

*Disclosure of Social Security Numbers (SSN) is mandatory under Texas Family Code §231.302 (c) (1). The SSN is provided to identify persons relative to enforcement of child support payments.



TEXAS STATE BOARD OF PHARMACY
333 Guadalupe Street Suite 3-500 ★ Austin, TX 78701
(512) 305-8000 ★ www.pharmacy.texas.gov

EACH OF THE FOLLOWING QUESTIONS MUST BE ANSWERED BY THE OFFICER BEING ADDED:

- 1 Have you been the subject of ANY professional disciplinary action or are such actions pending against you by a regulatory authority? (e.g., denial, surrender, revocation, reinstatement, suspension, fine, reprimand, probation, restriction). Include such information for ALL states and for ALL regulated professions.

*If you answered "yes" to Question #1, include the name of the Board, licensing or disciplinary authority and the date of the Order, and, if applicable, the date of the termination of the condition and/or probation.

- 2 For any criminal offense, including those pending appeal, have you ever:

- A. Been Arrested?
- B. Been charged with a crime but not arrested?
- C. Pled nolo contendere?
- D. Pled Guilty?
- E. Received deferred adjudication for a misdemeanor?
- F. Received deferred adjudication for a felony?
- G. Been convicted of a misdemeanor?
- H. Been convicted of a felony?

<input checked="" type="checkbox"/> Yes*	<input type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes*	<input checked="" type="checkbox"/> No

*In answering questions #2A-H, include all offenses even those for which you subject to deferred adjudication. (e.g., assault, theft, theft by check, driving while license suspended, possession of controlled substances, public intoxication, DWI, driving under the influence of drugs.)

- 3 Have you been subject to a court ordered probation or confinement as related to any offense? Yes No

- 4 Are you a registered sex offender or have you ever been required to register as a sex offender in Texas or in any other state? Yes No

- 5 Have you ever been licensed, certified, or registered with another State Board of Pharmacy as a pharmacist, pharmacist intern, or pharmacy technician? Yes* No

*If you answered Yes to Question 7, indicate the type of license, certification, or registration that you received, the dates of registration, and the registration number.

Attest: I hereby attest that by submitting this form, I request to be listed as an Owner/Managing Officer of the above mentioned pharmacy license, and the foregoing statements on this form and those on any attachment(s) to this form are to the best of my knowledge true and correct and that they are given of my free will. I agree that any misstatement(s) or omission(s) as to material facts will constitute violation of and subject me to the penalties set forth in the Texas Pharmacy Act and Rules. I agree to comply with the Texas Pharmacy Act and Rules. **THIS SIGNATURE MUST BE NOTARIZED.**

Mohamed M. Mokbel

3-18-21

Subscribed and sworn before me this

18th

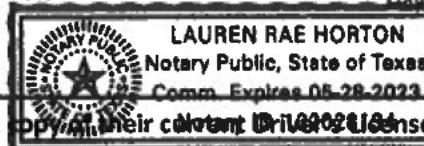
Signature of Managing Officer

Date

Day Of

, 20

Mohamed M. Mokbel



March

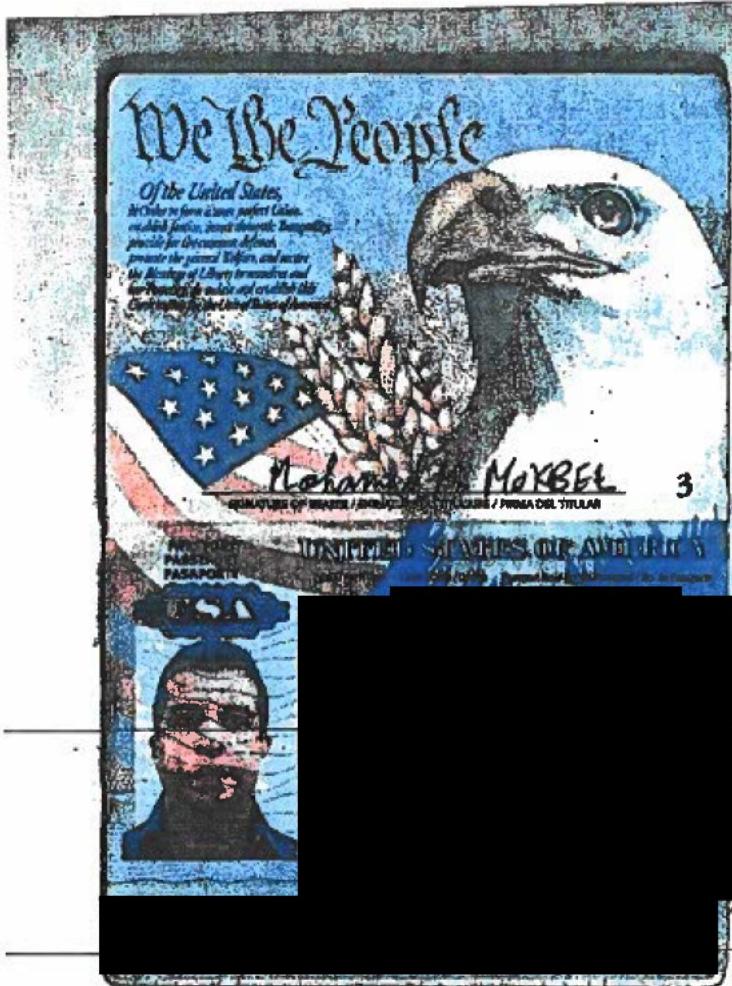
21

REMEMBER: Each Officer must submit a copy of their current Driver's License AND Social Security Card

YOU MUST SUBMIT THE ORIGINAL NOTARIZED FORM – COPIES/FAXES ARE NOT ACCEPTED.

EXP: 5-28-2023
ID: 132028134





**Franchise Tax Account Status**

As of : 03/18/2021 12:35:52

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

M K PHARMACY LLC	
Texas Taxpayer Number	32063741535
Mailing Address	18006 PARK ROW STE 350 HOUSTON, TX 77084-7906
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	05/12/2017
Texas SOS File Number	0802720539
Registered Agent Name	M [REDACTED] M E [REDACTED]
Registered Office Street Address	[REDACTED]

Certificate of Amendment
FAXed on 3/17/2021

Government's Exhibit B

Interviews of K.C. and N.B.



Department of Health and Human Services
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS



REPORT OF INTERVIEW

K [REDACTED] was interviewed on Tuesday, July 6, 2021 at [REDACTED] by Investigator Ally Montillo and Special Agent Justin Blan of this office. [REDACTED] After being advised of the nature of the interview and identity of the interviewers, [REDACTED] provided the following information, in substance:

K [REDACTED] A [REDACTED] Personal Identifiers

Home Address: [REDACTED]
 Phone: [REDACTED]
 DOB: [REDACTED]/1958

[REDACTED] is a Medicare beneficiary who has been diagnosed and is being treated for: peripheral neuropathy, diabetes, psychogenic tremors, depression, insomnia, anxiety, and problems with her foot.

Q [REDACTED]'s primary care physician is Dr. Monte OROHOOD. He is located in Houston, Texas and prescribes the majority of Q [REDACTED]'s prescription medications. [REDACTED] is also being treated in Houston by physician's assistant, Jessica Hanson, Texas Behavioral psychiatrist, Dr. Mary Hill, therapist, Kathleen Lanini, and podiatrist, Dr. Mohammed Farooqui.

[REDACTED] has a Part C Medicare Advantage plan with United Healthcare. Her preferred pharmacy and the pharmacy she informs her physicians to send her prescriptions to is Kroger Pharmacy located near her home on Telephone Road. [REDACTED] is currently taking the following prescribed medications: Amitriptyline, Trazadone, Sertraline, Clonazepam, Tramadol, Victoza, Jardiance, Avastatin, and over-the-counter vitamins.

[REDACTED] has received several unsolicited prescription medications in the mail from pharmacies that she is unfamiliar with including MK Pharmacy and Family Pharmacy. [REDACTED] confirmed that she began receiving calcipotriene topical cream, omega-3 capsules, and clobetasol propionate topical ointment in the mail from MK Pharmacy approximately one year ago. She did not request or order the medications from MK Pharmacy or Family Pharmacy. She is unfamiliar with these pharmacies and does not know how these pharmacies obtained her health insurance information, personally identifiable information (PII), or the information of her primary care physician, OROHOOD.

Interview Conducted on	7/6/2021	At	[REDACTED]
By	Ally Montillo, Justin Blan	Inv. Phone Number	[REDACTED]
		By	Ally Montillo

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Report of Interview – [REDACTED]
Date of Interview: 7/6/2021

Page 2 of 2
Case Number: [REDACTED]

[REDACTED] confirmed, she has not been diagnosed with medical conditions that require these prescriptions. She discussed the medications she received from MK Pharmacy with OROHOOD who confirmed he did not authorize the medications for [REDACTED] and instructed his staff to contact MK Pharmacy to inform them "We are not authorizing those medications and to stop sending it to [REDACTED]"

[REDACTED]
[REDACTED]



Department of Health and Human Services
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS



REPORT OF INTERVIEW

N [REDACTED] B [REDACTED] was interviewed [REDACTED] [REDACTED] Houston, Texas [REDACTED] by Investigator Ally Montillo and Special Agent Justin Blan of this office. After being advised of the nature of the interview and identity of the interviewers, [REDACTED] provided the following information, in substance:

N [REDACTED] B [REDACTED] Personal Identifiers

[REDACTED]
[REDACTED]
[REDACTED]

B [REDACTED] is a Medicare beneficiary who suffers from several ailments including Chronic Obstructive Pulmonary Disease (COPD), high blood pressure, and joint pain in her knees. B [REDACTED] is current primary care physician (PCP) is Dr. Prabhugouda Patil located in Houston, Texas.

B [REDACTED] confirmed she does not have diabetes, is not on insulin, and does not suffer from any skin conditions such as eczema or psoriasis. She lives with her young granddaughter and is able to drive.

B [REDACTED] is currently taking the following prescribed medications: gabapentin, trazadone, lidocaine, Percocet, a blood thinner, and blood pressure medication. She does not need omega-3/fish oil capsules nor calcipotriene and has not asked her PCP, Dr. Patil to prescribe these two medications. She does not suffer from any ailments that would medically require her to take omega-3 or use calcipotriene ointment.

[REDACTED]
[REDACTED]

[REDACTED] has Part C Medicare Advantage with United Healthcare. B [REDACTED]'s preferred pharmacies are ReCept Pharmacy located in Houston, Texas and Optum Rx mail order pharmacy. She is not familiar with MK Pharmacy and has not ordered any medications from this pharmacy. [REDACTED] does not recall receiving omega-3 capsules and calcipotriene from MK Pharmacy in the mail although B [REDACTED]'s Medicare claims data indicates that billing was submitted by MK Pharmacy for these medications.

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